

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION**

Judy Crane,)	C/A NO. 9:09-0929-CMC-BM
)	
Plaintiff,)	
)	OPINION AND ORDER
v.)	
)	
Secretary of Health and)	
Human Services,)	
)	
Defendant.)	
_____)	

Through this action, Plaintiff seeks judicial review of the decision of the Commissioner of Social Security denying Plaintiff's claim for Social Security benefits, pursuant to 42 U.S.C. § 405(g). The matter is currently before the court for review of the Report and Recommendation ("Report") of Magistrate Judge Bristow Marchant, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(a) (D.S.C.).

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court may accept, reject, or modify, in whole or in part, the recommendation, or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

As noted in the Report, the record contains no evidence that Defendant was served within the 120-day time period for service, which expired on August 14, 2009. *See* Fed. R. Civ. P. 4(m). Consequently, the Report directed Plaintiff to submit proof that Defendant was timely served, or good cause for any failure to serve, within ten days following entry of the Report. The Report recommends that the court dismiss this case should Plaintiff fail to do so.

Plaintiff has not submitted proof of service or demonstrated good cause for failure to serve Defendant. Neither has Plaintiff objected to any of the findings or recommendations of the Report. The time for filing these materials has expired.¹ Accordingly, the court adopts the Report and Recommendation of the Magistrate Judge and dismisses this case, without prejudice, pursuant to Rule 4(m), Fed. R. Civ. P.

IT IS SO ORDERED.

S/ Cameron McGowan Currie _____
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
September 29, 2009

¹ The ten-day period to submit evidence of service to the Magistrate Judge expired on September 25, 2009. The deadline to submit an objection to the Report expired on September 28, 2009. No motions for extension of time have been filed.